S.B.CIVIL CONTEMPT PETITION NO.18/2005

Banshilal.
vs.
Manvendra Kumar Sharma

DATE OF ORDER ::: 6.1.2006

PRESENT

HON'BLE MR. PRAKASH TATIA, J.

Mr. JL Purohit, for the petitioner.

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Heard learned counsel for the petitioner.

According to learned counsel for the petitioner, the Assistant Settlement Officer passed an order on 23.3.1983 (Annex.1) which is not being implemented by the concerned authorities. It appears from this order dated 23.3.1983 that both the parties submitted before the Assistant Settlement Officer that the matter is pending before the Board of Revenue and the mutation may be opened according to the ultimate decision which may be given by the Board of Revenue and till then, the old entries may be continued and the proceedings may be dropped. On the basis of these submissions, the Land Records Officer dropped the proceedings and ordered that the entries which were in existence in favour of Bhanwar Bai w/o Samunder Singh and Sikmi Kastkar Banshi Lal may be kept for the land mentioned in the said order.

According to learned counsel for the petitioner, another application was submitted before the Assistant Land Records Officer, Bhilwara which was decided by order dated 23.7.1983 (Annex.2) wherein it was ordered that in place of name of Bhanwar Bai, the name of Sorawar Singh may be entered. The order dated 23.7.1983 was challenged by filing appeal before the Land Records Officer who decided the appeal by order dated 3.5.1984. The Land Records Officer dismissed the appeal on the ground of limitation. Against this, further appeal was preferred by Banshi Lal and others against Sorawar Singh before the Colonisation Commissioner who allowed the appeal and set aside the order of Land Records Officer dated 3.5.1984 and remanded the matter back to the appellate authority with a direction to decide the matter afresh after hearing the parties. This appeal was decided on 3.6.1986.

The petitioner has placed on record copy of another order passed by the Board of Revenue (Annex.5) dated 22.12.1988 by which second appeal was dismissed by the Board of Revenue preferred by Sorawar Singh against the judgment and decree of Revenue Court – Assistant Collector, Chittorgarh on 13.9.1971 and against the appellate judgment and decree dated 24.4.1973.

According to the petitioner, Sorawar Singh preferred a writ petition no.3770/1989 against the judgment dated 22.12.1988 which was dismissed by this Court by judgment dated 26.7.2002. According to the petitioner, he applied for restoring the names of Bhanwar Bai tenant and Banshi Lal sub-tenant as per the order dated 23.3.1983 but nothing

was done by the Tehsildar. The petitioner has submitted this contempt petition on the ground that the Tehsildar is willfully avoiding the implementation of the orders passed by the Assistant Settlement Officer. However, it is also admitted by the petitioner that Sorawar Singh expired and his legal representatives have preferred an appeal against the order of this Court passed in writ petition no.3770/1989 which is pending but no stay order has been granted, therefore, the Tehsildar should have implemented the order passed by the Settlement Commissioner and the Board of Revenue dated 22.12.1988.

Learned counsel for the petitioner submits that the authorities below have no power to punish for disobedience of their orders, therefore, the petitioner has preferred this contempt petition before this Court.

I have considered the submissions of learned counsel for the petitioner.

The facts stated above are sufficient to show that the contempt petition is hopelessly misconceived in view of the fact that the petitioner wants to enforce the order, according to the petitioner, which was passed in his favour in the year 1983 and he has filed this contempt petition after decades. The petitioner has not placed on record any material by which it can be gathered that he ever tried to get the orders, if they are in his favour, implemented by submitting any proper application before the said concerned authority who passed the order in the year 1983. The order

of Board of Revenue is order of dismissal of the appeal and not a executable order or decree.

In view of the above, this contempt petition, having no merit, is hereby dismissed.

(PRAKASH TATIA), J.

S.Phophaliya